

Issue.” McCarthy was still working on the date and location of the meeting, but informed tribal leaders that MIGA was shooting for Jan. 17 or 18.

In his memo, McCarthy noted that he had talked with staff members for Oberstar, Minge, and Wellstone “about assisting us in our effort to meet the Secretary of the Interior on the dog track issue.” MIGA’s “goal,” he explained, was “to secure a meeting with Secretary Babbitt or his designee (probably John Duffy) to discuss this issue.” The memo outlined the “specific strategy” that the opponents would use to try and “overrule the recommendations of the Bureau.” The strategy included the arguments that “the consultation was flawed,” that “we were not given a fair opportunity to present our case,” and that the FONSI was invalid.

The proposed strategy also entailed impressing upon the Secretary that the BIA “failed to take into account the political impact this action would have on the Minnesota tribes.” (Emphasis in original.) By “political impact,” McCarthy meant that the BIA failed to recognize the “unwritten” agreement by the Minnesota tribes not to expand gaming off-reservation or into the downtown areas. Allowing a casino in Hudson, in MIGA’s view, would push Indian gaming down a slippery slope, as it would stimulate activity to put casinos in every urban center. Such action would hurt Indian gaming revenues.¹³⁰

Another part of the strategy was to “identify the potential for a conflict of interest” on the part of BIA. By this, McCarthy meant that the opponents questioned whether Assistant Secretary Deer could be a neutral, unbiased decisionmaker. In their view, a potential conflict of interest

¹³⁰McCarthy later conceded “the bottom line is that [it] all equates to economics.” Grand Jury Testimony of John McCarthy, Jan. 29, 1999, at 29 (hereinafter “McCarthy G.J. Test., Jan. 29, 1999”).